

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

United States of America, et al.

Plaintiff,

V.

Cinergy Corporation, *et al.*

Defendant.

Case No. _____

OBJECTION OF POTTS WELDING AND BOILER REPAIR TO SUBPOENA

Potts Welding and Boiler Repair (“Potts”), a non-party in the above-captioned matter, was served with a subpoena dated June 8, 2005 seeking the production of documents on July 5, 2005. Pursuant to Delaware Court of Chancery Rule 45(c)(2)(B), Potts objects to the inspection and copying of documents in its possession, custody and/or control responsive to the subpoena, on the grounds stated below.

1. Potts objects to the subpoena on the grounds that the requests are overbroad and any attempt to conduct a complete review of Potts's records to locate any responsive documents would be unduly burdensome. There is no time period stated for the documents requested and Potts has no knowledge of any recent projects involving the facilities listed in the subpoena.

2. Potts objects to the subpoena to the extent it seeks documents available from parties in the underlying action and Potts, a non-party, should not be burdened with production of such documents.

3. Potts objects to the subpoena to the extent that it seeks information that is protected from disclosure by the attorney-client privilege, the work-product doctrine and/or other duties of confidentiality or privilege or the account-client privilege.


4. Potts objects to the subpoena to the extent that it seeks the disclosure of information that is confidential and proprietary information of Potts.

5. Potts objects to providing documents responsive to the subpoena unless and until such documents are protected by an appropriate protective order from misuse of further disclosure.

Potts reserves the right to amend or supplement these objections.

Dated: June 22, 2005

THE BAYARD FIRM


By: 
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Attorneys for Potts Welding and Boiler Repair

CERTIFICATE OF SERVICE

I, Cheryl Siskin, hereby certify that on the 22nd day of June, 2005, a copy of the ***Objection of Potts Welding and Boiler Repair to Subpoena*** was served via *Facsimile and First Class Mail* on the party listed below.

Jeffrey K. Sands, Esquire
U.S. Department of Justice
Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington D.C. 20044-7611


Cheryl Siskin (No. 3437)